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Letter dated 3 March 2003 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my letter of 3 September 2002 (S/2002/991).

The Counter-Terrorism Committee has received the attached supplementary report from Guinea submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Jeremy **Greenstock**
Chairman
Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

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Annex to the letter dated 3 March 2003 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

[Original: French]

Note verbale dated 6 February 2003 from the Permanent Mission of Guinea to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

The Permanent Mission of Guinea to the United Nations presents its compliments to the secretariat of the Counter-Terrorism Committee of the Security Council and has the honour to transmit herewith the second report of Guinea submitted pursuant to paragraph 6 of Security Council resolution 1373 (2001) (see enclosure).

Enclosure

Supplementary report of Guinea submitted pursuant to paragraph 6 of Security Council resolution 1373 (2001) of 28 September 2001 concerning counter-terrorism*

Subparagraph 1 (a)
Could Guinea please inform the Counter-Terrorism Committee about the outcome of the Central Bank's considerations regarding the "systematic control of private financial flows into the Republic of Guinea and of the portfolios of loans granted by the banks to certain entities deemed to be sensitive"?

There is no specific legislative provision in the Republic of Guinea for "the systematic control of private financial flows into the Republic of Guinea and of the portfolios of loans granted by the banks to certain entities deemed to be sensitive".

It should be noted here that the term "entities deemed to be sensitive" is not found in Guinean legislation.

In the absence of specific studies, the Central Bank has no particular conclusions on the matter. In practice, however, banks verify the source of funds in cooperation with their head offices and notify the Central Bank as circumstances warrant.

Whenever it appears that the information might be of some use to the Counter-Terrorism Committee, nothing prevents the Central Bank from reporting it to the Committee. The Central Bank intends, moreover, to develop a system for the "systematic control of private financial flows into the Republic of Guinea and of the portfolios of loans granted by the banks to certain entities deemed to be sensitive". It hopes to benefit from the support and assistance of the Committee and any other relevant institution in implementing the system.

Does Guinea intend to enact anti-money-laundering legislation?

The Republic of Guinea intends to enact a law against money-laundering and work on it is underway. However, some difficulties have arisen which are attributable to the low level of understanding of the practices and techniques used in money-laundering. The Central Bank is of the view that the elaboration of a training and information programme on these practices and techniques should be a prerequisite for the elaboration and adoption of anti-money-laundering legislation.

Subparagraph 1 (c)
Which legal and natural persons are entitled to request the freezing of assets?

Any legal or natural person in possession of a court order or document justifying their interest in requesting the freezing of assets.

* Attachments are on file with the Secretariat and are available for consultation.

Does Guinean legislation authorize foreign authorities to file a request for the freezing of funds with the Ministry of Justice?

Guinean legislation does not formally authorize foreign authorities to request the freezing of funds, except within the framework of reciprocal judicial assistance and cooperation arrangements, under which foreign authorities may request the freezing of funds. Also, as a State party to various international conventions, the Republic of Guinea is prepared to implement all of the provisions of these legal instruments.

How long does it take to freeze an account under the procedure described in the report?

The time needed to freeze an account under the procedure described is two weeks.

Subparagraph 1 (d)
What preventive controls and surveillance measures has Guinea put in place to ensure that funds received by charitable, religious or cultural organizations are not diverted from their stated purposes to terrorist activities?

Preventive controls and surveillance measures include:

- Monitoring by the regulatory authority of observance of their statutes by charitable and religious organizations;
- Transmittal to the regulatory authority of annual reports of activities;
- Monitoring of the execution of contracts.

Subparagraph 2 (a)
Could Guinea please explain how it criminalizes the recruitment of members of terrorist groups both inside and outside Guinea, as distinct from the criminalization of membership in or association with such a group?

The Republic of Guinea has not criminalized the recruitment of members of terrorist groups as distinct from the criminalization of membership in such a group.

Thus far, no cases of recruitment of members of terrorist groups have been reported in Guinea. The question of separate crimes therefore does not arise, given the principle of criminal law which states that, without law, there can be neither punishment nor crime.

In the Republic of Guinea, terrorist acts are covered by and punished under articles 505 et seq. of the Penal Code. The provisions of article 507 are included in the first report submitted pursuant to Security Council resolution 1373 (2001).

Nevertheless, there is nothing to prevent the Guinean legislature from deciding to include in the Penal Code a provision for criminalizing the recruitment of members of terrorist groups as distinct from criminalization of membership in such a group.